

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2002-343

March 7, 2003

BANGOR HYDRO-ELECTRIC COMPANY
Request to Construct Transmission Line of
100 or More Kilovolts Between the
Chester Substation and the East Millinocket
Substation

ORDER APPROVING
SECOND STIPULATION
AND SECOND INTERIM
ORDER

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

We approve a Second Stipulation and issue a Second Interim Order in this Title 35-A, Section 3132 certificate case and permit Bangor Hydro-Electric Company (BHE) to continue construction of a 115 kV transmission line pending a final decision on whether to issue a certificate. This Second Interim Order permits BHE to continue constructing the line until April 30, 2003, the date by which our final decision is expected in this case. The Second Stipulation continues to restrict the ability of BHE to recover the costs of the transmission line from ratepayers other than the customer who requested the transmission service from BHE.

On October 30, 2002, we issued the *Interim Order and Order Approving Stipulation* in this docket. By the October 30 Order, we approved the Stipulation that allowed BHE to begin construction of the proposed transmission line pending a final decision by the Commission, up to a spending cap of \$4.5 million. In order for the line to be operational by summer 2003, BHE needed to complete certain construction before the ground froze last fall and to complete other construction during the winter 2002-2003. The final decision in this certification case could not be reached by the time of the October 30 order because the ISO-NE System Impact Study (SIS) and related NEPOOL Section 18.4 approval process for the proposed line was not complete and was not expected before the end of the calendar year. The parties entered into the Stipulation to permit BHE to begin construction without a certificate, at BHE's shareholder's risk and still meet BHE's and Brascan's (the customer requesting this line) goal of placing the line in service by summer 2003, assuming the Commission ultimately issues the certificate.¹ Because the Stipulation protected ratepayers from BHE's construction costs and the spending cap prevented Emera, BHE's shareholder, from suffering any negative consequences to its financial integrity that indirectly would have been passed on to BHE ratepayers, and otherwise caused no prejudice to the Commission or parties in deciding the certificate issues, we found the Stipulation to be reasonable.

On January 29, 2003, ISO-NE issued its so-called 18.4 approval. Some parties state that they have concerns regarding conditions attached to the 18.4 approval and

¹ Industrial Energy Consumer Group (IECG) and Georgia Pacific did not join the Stipulation, but did not oppose it.

whether the proposed line will meet the public interest standard necessary for issuance of a certificate of public convenience and necessity. Accordingly, the Examiner has established a litigation schedule that calls for a hearing by the end of March.

BHE states that it expects to reach the spending cap by around March 1. The parties filed a Second Stipulation that allows BHE to continue construction until April 30, without a spending cap, in order to accommodate the new litigation schedule while otherwise maintaining the status quo that was created by the October 30 order.²

For the same reasons that we found the Stipulation to be reasonable, we find that the Second Stipulation is reasonable. BHE states that it will not place the line in service until a certificate is granted by the Commission. The substitution of a date certain for the spending cap may be reasonable in this instance because the total cost of the line is not expected to be significant enough to impact Emera's financial integrity. However, we prefer to impose a spending cap on BHE rather than permit an infinite level of spending through the time period. Accordingly, we condition our approval of the Stipulation on BHE accepting a \$10 million spending cap on its construction activities, or \$1 million more than its total expected costs. BHE, and other parties, have consented to this condition.

Accordingly, we approve the Second Stipulation and issue this Second Interim Order.

Dated at Augusta, Maine, this 7th day of March, 2003.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond

² IECG and Georgia-Pacific again do not join the Stipulation but do not oppose it.

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.